

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Liliana Manuel	Team: Squad #7	CCRB Case #: 201601089	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 02/01/2016 4:00 AM	Location of Incident: § 87(2)(b)	Precinct: 69	18 Mo. SOL 8/1/2017	EO SOL 8/1/2017	
Date/Time CV Reported Mon, 02/01/2016 11:41 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/08/2016 11:15 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Hadi Saifi	08304	939403	069 PCT
2. POM Michael Cadena	14879	956470	069 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Mark Hunter	28095	944085	069 PCT
2. POM Corry Harper	10512	958682	069 PCT
3. SGT Olivier Pasquet	3608	949450	069 PCT
4. POM Karl Campbell	12839	942763	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Hadi Saifi	Discourtesy: Police Officer Hadi Saifi spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.POM Hadi Saifi	Off. Language: Police Officer Hadi Saifi made remarks to § 87(2)(b) based upon ethnicity.	§ 87(2)(b)
C.POM Hadi Saifi	Abuse: Police Officer Hadi Saifi attempted to interfere with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
D.POM Hadi Saifi	Abuse: Police Officer Hadi Saifi threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
E.POM Michael Cadena	Discourtesy: Police Officer Michael Cadena spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Case Summary

On February 1, 2016, § 87(2)(b) filed the following complaint with IAB (Board Review 01). The complaint generated original log number 16-3581, and was received at the CCRB on February 8, 2016.

On February 1, 2016, at approximately 4:00 a.m., § 87(2)(b) called 911 in regards to a domestic dispute he was having with his girlfriend, § 87(2)(b) at her apartment located on the § 87(2)(b) in Brooklyn. § 87(2)(b)'s two sisters, § 87(2)(b) and § 87(2)(b) were present during the incident. PO Hadi Saifi and PO Mark Hunter of the 69th Precinct responded, and § 87(2)(b) requested that a report be taken. The officers allegedly refused to write a report. PO Saifi allegedly told § 87(2)(b) "Get your shit and leave," and later stated, "I'm asking you a fucking question," (**Allegation A**). PO Saifi also allegedly stated to him, "We are not your type of people," (**Allegation B**). § 87(2)(b) began recording the incident, at which point PO Saifi allegedly pushed the camera toward § 87(2)(b)'s face (**Allegation C**). PO Saifi also told § 87(2)(b) "If you want to leap then leap," which PO Saifi confirmed in his CCRB interview meant to fight (**Allegation D**).

Because the officers refused to write the report, and because § 87(2)(b) felt threatened by PO Saifi, he called 911 again and requested additional officers. PO Michael Cadena and PO Corry Harper of the 69th Precinct responded. PO Cadena allegedly called § 87(2)(b) a "bitch," and stated, "I can't believe this fucking prick," (**Allegation E**). When officers still refused to prepare a report, § 87(2)(b) called 911 again. Sergeant Olivier Pasquet and PO Karl Campbell of the 69th Precinct responded, and complaint and domestic incident reports were then prepared (Board Review 02; 03). No arrests were made and no summonses were issued.

§ 87(2)(b) filmed various portions of the incident and provided two videos to IAB (Board Review 04; 12; 13). One video shows PO Saifi making a discourteous statement to § 87(2)(b) and another depicts what § 87(2)(b) alleged to be PO Saifi interfering with him recording the incident on his phone. Though § 87(2)(b) claimed to have additional videos, and presented a few short video clips to the CCRB during his interview, he refused to provide any videos to the CCRB. The two videos he provided to IAB are embedded below.



201601089_20160304_1218_DM.mp4



201601089_20160526_1611_DM.mp4

This case went beyond the 90-day benchmark by approximately two weeks due to the extensive contact attempts made to § 87(2)(b) to obtain additional video footage, attempts to contact witnesses, and extensive officer interviews.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- A Notice of Claim inquiry has been requested from the NYC Comptroller's office, and will be added to the case file upon receipt (Board Review 05).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 07).
- PO Saifi has been a member of the NYPD for ten years. He has had two previous CCRB cases involving three allegations, none of which were substantiated. One of these past allegations was a threat of force, and was closed as Victim Uncooperative. Another allegation was an allegation of discourtesy, which was unsubstantiated.
- This is the first CCRB complaint filed against PO Cadena in his one-year tenure.

Potential Issues

§ 87(2)(b) refused to provide contact information for § 87(2)(b) or her sisters, § 87(2)(b) and § 87(2)(b) all of whom allegedly witnessed the incident. On March 14, 2016, during a second call to § 87(2)(b) § 87(2)(b) refused to provide a statement to the CCRB. She confirmed that she, § 87(2)(b) and § 87(2)(b) shared the same address, but she refused to provide contact information for § 87(2)(b) or § 87(2)(b) stating that they did not want to be involved in the complaint.

Database searches were performed for § 87(2)(b) and § 87(2)(b) but did not yield any phone numbers for them. Additional calls were made to § 87(2)(b) to reach her sisters on March 16, 2016, and March 22, 2016, but the CCRB was unable to reach them. Letters were sent to § 87(2)(b) and § 87(2)(b) on March 4, 2016, March 22, 2016, and April 7, 2016. No letters were returned in the mail by the U.S. Postal Service. The CCRB therefore was unable to reach § 87(2)(b) or § 87(2)(b) and did not obtain statements from them or § 87(2)(b).

Findings and Recommendations

Allegations Not Pleaded

- Threat of arrest – § 87(2)(b) stated that after PO Saifi learned that § 87(2)(b) is sister or sister-in-law was a member of service, he threatened to report her to IAB. This family member was not present during the incident, and § 87(2)(b) never revealed her identity to the CCRB or to the officers. § 87(2)(g)

Allegation A – Discourtesy: Police Officer Haidi Saifi spoke discourteously to § 87(2)(b)

§ 87(2)(b) provided a phone statement to IAB on February 1, 2016, an unsworn phone statement to the CCRB on February 16, 2016, and a sworn statement to the CCRB on February 17, 2016 (Board Review 01; 10; 11). His statements were generally consistent. § 87(2)(b) alleged that PO Saifi and PO Hunter refused to write a report, and instead urged § 87(2)(b) to leave the house. He alleged that PO Saifi told him, “Get your shit and leave,” numerous times. In his unsworn phone statement, § 87(2)(b) alleged that PO Saifi also stated, “I don’t give a fuck.” § 87(2)(b) did not mention this in his other statements.

When it was revealed that § 87(2)(b) had a sister or sister-in-law who was a member of service, PO Saifi incessantly questioned § 87(2)(b) about the sister, asking for her name and where she worked. In one of the videos § 87(2)(b) provided to IAB, PO Saifi is depicted questioning § 87(2)(b) about his sister and stating, “I’m asking you a fucking question,” (Board Review 13). PO Saifi repeatedly tells § 87(2)(b) to tell him who his sister is. § 87(2)(b) felt threatened by PO Saifi’s behavior, and called 911 twice to request additional officers. As addressed in the Potential Issues section, the CCRB did not obtain statements from § 87(2)(b) or § 87(2)(b) who witnessed the incident.

PO Saifi provided a statement to the CCRB, and stated that he felt § 87(2)(b) had an aversion to him, particularly after PO Saifi questioned him about his sister (Board Review 14). PO Saifi acknowledged that § 87(2)(b) may have felt threatened by his questions, and recounted § 87(2)(b) stating over the phone that the officers were being uncooperative. PO Saifi identified himself in the video footage as the officer to state, “I’m asking you a fucking question,” while questioning § 87(2)(b) about his sister. He explained that he wanted to gain identifying information about § 87(2)(b) s sister so that he could report her to IAB, as he believed she could potentially provide information to § 87(2)(b) that could be disadvantageous to the officers. PO Saifi stated, however, that § 87(2)(b) was not required to provide identifying information about his sister to the officers. PO Saifi acknowledged having told § 87(2)(b) to get his belongings and leave, but denied using any other profanity towards § 87(2)(b). When Sgt Pasquet responded, he instructed PO Saifi to wait outside until the situation was resolved.

PO Cadena was interviewed at the CCRB, and stated that he heard PO Saifi tell § 87(2)(b) “Get your shit and leave,” and, “I don’t give a fuck,” (Board Review 15). He could not recall the context of PO Saifi stating, “I don’t give a fuck.” PO Cadena had no recollection of PO Saifi stating, “I’m asking you a fucking question,” even after reviewing the footage, and did not believe he was present when that statement was made.

PO Hunter and PO Harper were interviewed at the CCRB (Board Review 16; 17). PO Harper recounted PO Saifi telling § 87(2)(b) to get his belongings and leave, but neither he nor PO Hunter recalled hearing PO Saifi use any profanity. Though PO Hunter recounted the officers questioning § 87(2)(b) about his sister, who they believed to be a member of service, PO Hunter stated that § 87(2)(b) was not required to provide any identifying information about his sister to the officers.

During § 87(2)(b)’s second 911 call, he alleged that PO Saifi was uncooperative and was verbally attacking him (Board Review 08).

NYPD Patrol Guide Procedure 203-09 mandates that officers are to be courteous and respectful to civilians (Board Review 19). In certain stressful encounters, an officer may use limited profanity where the need to gain compliance or maintain control of an incident is present, NYPD v. Court, OATH Index 78667/03 (Board Review 20).

§ 87(2)(g)

Allegation B – Offensive Language: Police Officer Hadi Saifi made remarks to § 87(2)(b) based on ethnicity.

In his sworn statement, § 87(2)(b) alleged that PO Saifi stated to him, “This is not the LAPD. We are not your type of people.” § 87(2)(b) was unsure what PO Saifi meant by this, but thought that perhaps PO Saifi was making an offensive comment about § 87(2)(b) being Hispanic. § 87(2)(b) began filming, and asked PO Saifi to repeat what he had said. In the video footage, § 87(2)(b) asks PO Saifi, “What did you call me?” but PO Saifi does not repeat the comment (Board Review 12). § 87(2)(b) did not allege that PO Saifi stated, “We are not your type of people,” in his phone statement, IAB statement, or 911 calls, but indicated in his phone statement that PO Saifi made racial comments. He did not specify what the comments were. § 87(2)(b) did not provide any video footage to the CCRB documenting PO Saifi making the aforementioned statements.

PO Saifi claimed that § 87(2)(b) stated something to the effect of, “All you cops just fuck people up for no reason.” This comment reminded PO Saifi of the assault by officers of the Los Angeles Police Department (LAPD) against Rodney King. He told § 87(2)(b) “This is not the LAPD,” implying that he or NYPD officers do not beat people up for no reason. He denied stating, “We are not your type of people.”

PO Cadena recounted hearing PO Saifi state, “We are not the LAPD,” but did not recall hearing him state, “We are not your type of people.” He did not know what PO Saifi meant by the LAPD comment. Neither PO Harper nor PO Hunter recalled hearing PO Saifi state, “We are not your type of people.” PO Saifi, PO Hunter, and PO Cadena reviewed the video clip in which § 87(2)(b) asks PO Saifi, “What did you call me?” but the officers did not know what § 87(2)(b) was referring to.

Sgt Pasquet provided a statement to the CCRB, and explained that § 87(2)(b) wanted PO Saifi disciplined because he had disrespected him (Board Review 18). § 87(2)(b) refused to tell Sgt Pasquet what exactly PO Saifi had done, but claimed he had video footage documenting the disrespectful comments made by PO Saifi. § 87(2)(b) showed Sgt Pasquet a quick video clip in which PO Saifi stated, “This is not the LAPD.” § 87(2)(b) quickly paused the video and asked Sgt Pasquet, “You see? You see?” Sgt Pasquet did not know

why § 87(2)(b) was offended by the statement, and § 87(2)(b) refused to show him the rest of the video. The video footage did not depict PO Saifi stating, “We are not your type of people,” and § 87(2)(b) did not tell Sgt Pasquet that PO Saifi had made that statement. PO Saifi later explained to Sgt Pasquet that in making the LAPD comment, he meant that the officers were not going to fight or beat up § 87(2)(b).

In § 87(2)(b)'s second call to 911, he told the 911 operator that an officer stated, “This is not the LAPD.” § 87(2)(b) stated he wanted to file a report in regards to that comment.

§ 87(2)(g)

[REDACTED]

Allegation C – Abuse of Authority: Police Officer Hadi Saifi attempted to interfere with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) stated that he intermittently recorded videos on his phone throughout the incident. He alleged that at one point while he was recording, PO Saifi approached him and pushed the phone towards § 87(2)(b)'s face, causing it to make contact with § 87(2)(b)'s face, and causing § 87(2)(b) to drop the phone. In his unsworn phone statement, § 87(2)(b) stated that PO Saifi told him he did not care if § 87(2)(b) recorded him. In one video § 87(2)(b) provided to IAB, § 87(2)(b) appeared to be standing within a few feet from PO Saifi (Board Review 12). He walked back to what appears to be at least fifteen feet from PO Saifi, and then walked towards him again until he was within a few feet of him. PO Saifi took two slow steps towards § 87(2)(b). The camera then moved very closely to PO Saifi's face, and appeared to be only inches from his face, at which point a hand appeared in front of the camera, and the camera quickly moved. PO Saifi's hand was then seen raised in the air. § 87(2)(b) stated, “Don't do that. You're touching me right now,” and PO Saifi replied, “I'm not touching you.” § 87(2)(b) continued filming, and there was no indication that his phone fell to the ground.

All interviewed officers stated that § 87(2)(b) appeared to be intoxicated, as his demeanor drastically fluctuated, his statements did not make much sense, he smelled of alcohol, his speech was slurred, and he stumbled and walked back and forth. PO Saifi and PO Hunter stated that § 87(2)(b) repeatedly advanced towards the officers in an aggressive manner, coming almost nose to nose with the officers at some points. PO Hunter added that § 87(2)(b) was loud and irate while doing so, repeatedly put his phone in the officers' faces, and stumbled and swayed towards them. PO Saifi and PO Hunter claimed to have repeatedly told § 87(2)(b) to step back. PO Hunter explained that officers are trained to make sure civilians stay at a distance from officers, as officers have weapons on their belts that civilians could get ahold of. PO Hunter added that at some points, he and PO Saifi put their hands up to maintain their personal space, and to indicate to § 87(2)(b) to stop or step back.

PO Saifi did not recall making contact with § 87(2)(b) or his phone, even after reviewing the footage, but acknowledged that he may have touched § 87(2)(b)'s shoulder to try and have him go and get his things. He

stated that he had no problem with being recorded and therefore would not push someone's camera away or attempt to interfere with their recording.

PO Hunter believed that at one point, PO Saifi put his hand up in front of the camera, not in an attempt to prevent § 87(2)(b) from filming, but in an attempt to have him back up. Even after reviewing the footage, PO Hunter maintained that he believed PO Saifi was simply using his hand as a barrier to keep § 87(2)(b) from getting closer to him. He added that § 87(2)(b)'s stumbling and swaying may have inadvertently caused him or his phone to make contact with the officers or with PO Saifi's hand.

Neither PO Cadena nor PO Harper recalled seeing PO Saifi make contact with § 87(2)(b)'s phone, and they did not believe they were present when the video footage was taken. No officers recounted seeing § 87(2)(b)'s phone fall to the ground.

§ 87(2)(g)

Allegation D – Abuse of Authority: Police Officer Hadi Saifi threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that at some point during the incident, PO Saifi asked him if he wanted to leap, and stated, "If you want to leap then leap, if you think you're ready for it." § 87(2)(b) asked PO Saifi what "leap" meant, and PO Saifi informed him that it meant to fight. § 87(2)(b) interpreted PO Saifi's statement as a threat of force. During his interview, § 87(2)(b) presented a video clip in which he is heard stating to PO Saifi, "I feel threatened by you." PO Saifi responds, "If you want to leap then leap. Do it...If you think you're ready for it," (Board Review 11). § 87(2)(b) did not present the rest of the video clip and refused to provide it to the CCRB. The video was not among the videos he sent to IAB. In his statement to IAB, § 87(2)(b) alleged that PO Saifi also stated, "I'm ready to jump on you."

PO Saifi stated that when § 87(2)(b) aggressively approached the officers, PO Saifi told § 87(2)(b) to back up and "take it easy." § 87(2)(b) stated something to the effect of, "What are you going to do about it?" and PO Saifi informed him that if he continued to refuse his orders to back away he could be arrested. He told § 87(2)(b) to back up approximately three or four times, at which point § 87(2)(b) finally complied. While seated, § 87(2)(b) waved his arms and made a flinching movement, as if he wanted to physically fight. PO Saifi acknowledged having stated, "If you want to leap then leap, if you think you're ready for it." He explained that he meant that if § 87(2)(b) wanted to fight then he could do so, but there could be consequences such as his arrest. PO Saifi denied implying that he would fight § 87(2)(b) and denied stating, "I'm ready to jump on you."

PO Hunter stated he was unsure if it seemed as though § 87(2)(b) was trying to physically fight with the officers when he approached them, but PO Hunter considered it a possibility due to § 87(2)(b)'s intoxication, aggressive stance, and body language. Both PO Hunter and PO Saifi told § 87(2)(b) to back up more than once, and § 87(2)(b) eventually complied. At one point § 87(2)(b) stated that he did not want the officers to hit him. The officers told him that they were not going to, but just wanted him to settle down. PO Hunter recounted PO Saifi making a comment regarding "leaping." Though he could not recall the exact statement made by PO Saifi, he explained that it was not said in a provoking manner, and he instead told § 87(2)(b) not to "leap," which meant fight. He believed PO Saifi stated this when § 87(2)(b) had an aggressive

stance and was approaching PO Saifi, and that the “leap” comment was stated in the context of telling § 87(2)(b) that if he wanted to fight he would be arrested.

PO Cadena described § 87(2)(b) as aggressive, irate, and intoxicated. He explained that while § 87(2)(b) was seated, he “moved up” in the seat in an aggressive manner. PO Saifi asked § 87(2)(b) “You want to fight?” or, “You want to leap? Go ahead.” PO Saifi told § 87(2)(b) that he could try to do so but that he would be placed under arrest for doing so. PO Cadena did not recall PO Saifi making any indication that he would or wanted to fight § 87(2)(b). § 87(2)(b) asked PO Saifi if he was threatening him, and stated he did not feel safe.

PO Harper recounted that § 87(2)(b) was verbally confrontational by yelling at officers, but he did not recall § 87(2)(b) being physically confrontational in any way. He did not hear PO Saifi make any remarks about leaping or fighting.

Patrol Guide Procedure 203-11 authorizes officers to use the minimum amount of force necessary to enforce compliance with a lawful order and overcome resistance to effect an arrest (Board Review 09).

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Discourtesy: Police Officer Michael Cadena spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that after PO Cadena spoke with PO Saifi, his demeanor changed and he began acting rudely toward § 87(2)(b). PO Cadena allegedly told § 87(2)(b) “You’re being a little bitch,” and referred to him as a “bitch” numerous additional times throughout the incident. Because of PO Cadena and PO Saifi’s behavior towards § 87(2)(b) and because the officers still refused to write a report, § 87(2)(b) called 911 again and requested a sergeant. When § 87(2)(b) called 911, or when he stated that a sergeant was coming, PO Cadena allegedly stated, “I can’t believe this fucking prick,” referring to § 87(2)(b). In his statement to IAB, § 87(2)(b) also alleged that PO Cadena told him, “Hurry the fuck up.” He did not allege this in his other statements. § 87(2)(b) did not provide any video footage to the CCRB or IAB documenting PO Cadena’s statements.

PO Cadena could not recall if he made the alleged statements to § 87(2)(b) or if he used any profanity towards § 87(2)(b) at any point during the incident.

Neither PO Harper nor PO Hunter could recall if they heard PO Cadena use any profanity, and PO Saifi denied hearing him do so. PO Harper stated that PO Cadena was generally calm, but raised his voice when § 87(2)(b) continued to be uncooperative. PO Hunter described PO Cadena as being laidback and non-threatening during the incident.

Squad: ____

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date